

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:07cv100**

BOB STOUT CONSTRUCTION CO.,)	
INC.,)	
)	
Plaintiff,)	
)	
Vs.)	ORDER
)	
TOWN OF MARSHALL, NORTH)	
CAROLINA,)	
)	
Defendant and)	
Third-Party Plaintiff,)	
)	
Vs.)	
)	
CLARK & ASSOCIATES, INC., and)	
G. CECIL CLARK,)	
)	
Third-Party)	
Defendants.)	
_____)	

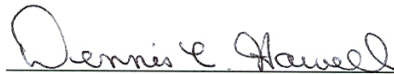
THIS MATTER is before the court on third-party plaintiff Town of Marshall’s “Motion Alternatively for Permissive Joinder of Parties” (#36). It appearing that the third party defendant’s Motion to Dismiss has been withdrawn, it follows that the instant motion is moot. The court will therefore, deny such motion without prejudice as moot, and finds that if it necessary to refile such motion, such refiling will be

deemed to relate back to the original filing and considered timely.

ORDER

IT IS, THEREFORE, ORDERED that third-party plaintiff Town of Marshall's Motion Alternatively for Permissive Joinder of Parties (#36) is **DENIED** without prejudice as **MOOT** and subject to the conditions herein provided.

Signed: October 19, 2007



Dennis L. Howell
United States Magistrate Judge

